

SERVICE DATE – JUNE 24, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 729X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN WASHINGTON COUNTY, MD.

Decided: June 23, 2015

CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 0.90 miles of rail line on its Northern Region, Baltimore Division, Lurgan Subdivision, between milepost BBT 3.9 at the connection to CSXT's main line and the end of track at milepost BBT 3.0 at Alternate Route US 40, south of Eastern Boulevard South in Hagerstown, in Washington County, Md. Notice of the exemption was served and published in the Federal Register on December 13, 2013 (78 Fed. Reg. 75,958). The exemption became effective on January 14, 2014.

By decision and Notice of Interim Trail Use (NITU) served on January 13, 2014, the Board established a 180-day period for the City of Hagerstown, Md. (City) to negotiate an interim trail use/rail banking agreement with CSXT for acquisition of the right-of-way. In a decision served on July 18, 2014, the Board extended the negotiating period for a year from that date.

By letter filed May 21, 2015, CSXT notified the Board that it and the City have agreed to terminate negotiations for interim trail use over the right-of-way. CSXT requests (1) that the NITU be terminated, (2) that the abandonment exemption be reinstated, and (3) that the abandonment exemption becomes effective upon the service date of this decision so that CSXT can consummate the abandonment and salvage the line.

Under the Trails Act, the trails use program is voluntary and consensual between the railroad and the trail sponsor.¹ Here, the parties have advised that they no longer wish to negotiate. Therefore, CSXT's request is reasonable and will be granted. Because the existing NITU is being vacated, CSXT's abandonment authority will be reinstated. If CSXT chooses to abandon the line, it must file a notice of consummation as set forth under the Board's rules at 49 C.F.R. § 1152.29(e)(2) by August 24, 2015. If CSXT does not timely file a notice of consummation, the abandonment authority will automatically expire.

¹ See 49 C.F.R. § 1152.29(c)(1) and (d)(1); Citizens Against Rails to Trails v. STB, 267 F.3d 1144 (D.C. Cir. 2001); Nat'l Wildlife Fed'n v. ICC, 850 F.2d 694, 699-702 (D.C. Cir. 1988); Rail Abans.—Use of Rights-of-Way as Trails (Rail Abandonments), 2 I.C.C. 2d 591, 598 (1986).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served January 13, 2014, is vacated.
3. The abandonment authority issued on December 13, 2013, is hereby reinstated.
4. If CSXT chooses to abandon the line, it must file a notice of consummation by August 24, 2015.
5. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.